

E-FILED ON DECEMBER 22, 2010

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA (LAS VEGAS)

In re:

SOUTH EDGE, LLC,

Involuntary Debtor.

Case No. 10-32968

Chapter 11

**EX PARTE APPLICATION FOR AN
ORDER SHORTENING TIME TO SET
HEARING ON: MOTION (I) TO PREVENT
KLEE, TUCHIN, BOGDANOFF & STERN
LLP FROM REPRESENTING SOUTH
EDGE, LLC AND (II) TO APPOINT A
RESPONSIBLE OFFICER TO HIRE
COUNSEL AND DETERMINE WHETHER
THE PETITION SHOULD BE
CONTROVERTED**

Hearing Date

Date: [OST REQUESTED]

Time: [OST REQUESTED]

MEMORANDUM OF POINTS AND AUTHORITIES

Focus South Group, LLC ("Focus"), and Holdings Manager, LLC ("Holdings Manager"),
through their counsel of record, hereby respectfully submit this Ex Parte Application to set a

1 hearing on shortened time on their Motion (i) to Prevent Klee, Tuchin, Bogdanoff & Stern LLP
2 from Representing South Edge, LLC and (ii) to Appoint a Responsible Officer to Hire Counsel
3 and Determine Whether the Petition Should Be Controverted (the “Focus Motion”).

4 In support of this Application, Focus and Holdings Manager state as follows:

5 1. Pursuant to this Court’s December 16, 2010 Scheduling Order, this Court will
6 conduct an evidentiary hearing on Wednesday, January 19, 2011 on the Petitioners’ Motion to
7 Appoint an Interim and Permanent Chapter 11 Trustee for South Edge, LLC. This Court will also
8 conduct an evidentiary hearing, to begin on Monday, January 24, 2011, on the underlying
9 involuntary petition. Declaration of Roberto K. Kampfner (“Kampfner Decl.”), ¶ 3.

10 2. As set forth with more particularity in the Focus Motion, Focus contends that KB
11 Home Nevada, Inc. (“KB”), Coleman-Toll Limited Partnership, LLC (“Toll”), Pardee Homes of
12 Nevada (“Pardee”), Beazer Homes Holding Corp. (“Beazer”), and MTH Homes Nevada, Inc.
13 (“Meritage”) (collectively, and excluding Focus, the “Builders”) did not have the corporate
14 authority to purportedly hire Klee, Tuchin, Bogdanoff & Stern LLP (“KTBS”) to represent
15 South Edge in connection with these proceedings.

16 3. Among other things, KTBS’s services will cost more than \$100,000 and,
17 therefore, the Builders do not have the supermajority (75% of the percentage interests in South
18 Edge) required by the South Edge operating agreement to hire KTBS. Focus also contends that
19 the Builders cannot vote to retain counsel for South Edge in connection with the involuntary
20 petition because these proceedings were caused by the Builders’ defaults under the South Edge
21 operating agreement, and the Builders cannot vote on matters related to their defaults. In any
22 event, the Builders (to the extent they have authority to hire counsel, which they do not) are
23 hopelessly conflicted and cannot adequately represent South Edge’s interests in these
24 proceedings. Accordingly, an independent and neutral responsible officer should be appointed to
25 hire counsel for South Edge and determine whether or not controvert the petition. *Id.* at ¶ 6.

26 4. Given the deadlines set forth in the Scheduling Order and South Edge’s need for
27 representation, it is critical that the issues raised by the Focus Motion be resolved as quickly as
28

possible. Accordingly, Focus requests that this Court set a hearing on the Focus Motion on the first date reasonably available. *Id.* at ¶ 7.

5. On Monday, December 20, 2010, and Tuesday, December 21, 2010, Focus contacted KTB&S, purported counsel for South Edge, and attempted to reach an agreement with respect to when the Focus Motion should be heard and oppositions and replies should be filed. No agreement was reached. *Id.* at ¶ 8.

6. Focus and Holdings Manager will give notice of the hearing to all parties in interest upon the entry of an order approving this Application.

CONCLUSION

Based on the foregoing, Focus and Holdings Manager respectfully request that the Court set a hearing on shortened time on the Focus Motion, as requested herein.

Dated: December 22, 2010

Respectfully submitted,

By: /s/ I. Scott Bogatz

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